

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

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|-----------------------|---|----------------------------|
| George Smith, |) | |
| |) | C.A. No. 5:18-2086-HMH |
| Petitioner, |) | |
| |) | |
| vs. |) | OPINION & ORDER |
| |) | |
| Aaron Joyner, Warden, |) | |
| |) | |
| Respondent. |) | |

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Kaymani D. West, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.

The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1) (2006).

The Petitioner filed no objections to the Report and Recommendation.¹ In the absence of objections to the magistrate judge's Report and Recommendation, this court is not required

¹ Objections were due on June 19, 2019. Petitioner filed a motion for extension of time on June 20, 2019, which the court granted on June 24, 2019, extending the deadline to file objections until July 9, 2019. Petitioner filed a motion for additional time on July 9, 2019, which the court denied on July 16, 2019.

to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The court must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge West’s Report and Recommendation and incorporates it herein. It is therefore

ORDERED that Respondent’s motion for summary judgment, docket number 33, is granted, and the petition is denied. It is further

ORDERED that a certificate of appealability is denied because Petitioner has failed to make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
July 23, 2019

NOTICE OF RIGHT TO APPEAL

The Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.